

Subhash and ors Vs. State

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Court : Rajasthan Jodhpur

Decided On : Oct-17-2014

Appellant : Subhash and ors

Respondent : State

Judgement :

D.B.Cr.

Appeal No.453/2008 1 IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JODHPUR

JUDGMENT

Subhash versus The State of Raj.

& ORS.D.B.Criminal Appeal No.453/2008 under Section 374(2) of Criminal
Procedure Code against the judgment dated 28.6.2008 passed by Additional
Sessions Judge Sangaria in Sessions Case No.5/2007.

Date of Judgment : 17.10.2014 PRESENT HON'BLE Mr.GOPAL KRISHAN
VYAS,J.

HON'BLE Mr.ATUL KUMAR JAIN, J.

Mr.R.S.Gill & Mr.J.D.S.Bhati for the appellants.

Mr.C.S.Ojha, Public Prosecutor for the State.

BY THE COURT(Per Hon'ble Mr.Jain,J.).In Kans Raj v.

State of Punjab & otheRs.2000 SCC SCC (Cri) 935, a Bench of three Judges of the Hon'ble Apex Court by its judgment dated 24.4.2000 had confirmed the conviction of Rakesh Kumar under Section 304B, 306 and 498A of Indian Penal Code by partly allowing the appeal of accused and sentence of Rakesh Kumar, who was husband of deceased was reduced to seven yeaRs.rigorous imprisonment along with other D.B.Cr.

Appeal No.453/2008 2 sentences under remaining sections of Indian Penal Code for which he was convicted and all the sentences were directed to run concurrently by the Apex Court.

The appellants have also relied upon Satish Chandra & anr.v.State of M.P., 2014 AIR SCW2816and in that case also it was held that immediate cause of committing suicide was regular fights with mother-in-law on account of dowry demand, but in view of the circumstance that the deceased was not happy with her matrimonial life for other reasons as well, so ends of justice would be sub-served by reducing sentence of accused from ten years to seven yeaRs.rigorous imprisonment.

On the basis of the logic and reasoning given while passing the sentence in aforesaid judgments, it has been argued in the present appeal by the appellants that Additional Sessions Judge,Sangaria in Sessions Case No.5/2007 titled as State versus Subhash & otheRs.by judgment dated 28.6.2008 has wrongly convicted all the three appellants under Sections 304B and 498A of Indian Penal Code.

It has further been submitted by the appellants that all the three appellants have been sentenced to life imprisonment and a fine of Rs.1000/- each with one month's additional imprisonment in default of payment on the count of Section 304B of Indian Penal D.B.Cr.

Appeal No.453/2008 3 Code and they have been sentenced to three years simple imprisonment with a fine of Rs.1,000/- and in default of payment of fine, one month's additional simple imprisonment on the count of charge under Section 498A of Indian Penal Code.

The appellants have challenged the veracity of the said judgment dated 28.6.2008 in this appeal and it has been argued on behalf of the accused- appellants that all the three appellants should be acquitted from all the charges and alternatively, it has been argued that if, any case at all, is made out against the accused- appellants, then they may be released on undergone sentence.

It has been submitted on behalf of the accused- appellants that accused-appellant Subhash is continuously in jail in this case since the date of his arrest, viz., 12.11.2006.

The period of custody suffered by other two accused-appellants is as under:- (1) Mst.

Geeta Devi: (1) 11.12.2006 to 12.12.2006 (2) 16.12.2006 to 15.3.2007 (3) 30.3.2007 to 10.1.2008 (4) 28.6.2008 to 22.9.2008 (2) Mst.

Paramjeet Kaur: (1) 12.11.2006 to 15.3.2007 (2) 30.3.2007 to 26.4.2007 (3) 28.6.2008 to 31.9.2008.

In the case in hand, Smt.

Suman@Sonu expired in suspicious circumstances on 9.11.2006, i.e, within three D.B.Cr.

Appeal No.453/2008 4 years of her marriage with Subhash.

Death occurred in the house of Subhash and it is alleged that in-laws of Sonu wanted to procure a Hero Honda Motorcycle and Rs.25,000/- cash as dowry from Sonu and her parents and so she was compelled to commit suicide by hanging.

Death of Smt.Suman@Sonu is not disputed in the case.

Death was caused by hanging, which is also not disputed.

Date of marriage of Smt.Suman@Sonu undisputedly was 22.10.2004 and she met with her death on 9.11.2006 by hanging.

Admittedly, she committed suicide as has been argued by both the parties, but it has been argued on behalf of the prosecution that she was harassed for dowry by her in-laws and that is why she was compelled to commit suicide by hanging.

The trial court has convicted and sentenced all the three appellants equally under Sections 304B and 498A of Indian Penal Code.

In the light of the arguments advanced by the learned counsel for the appellants, if we go through the statement of witnesses produced before the trial court, then we come to know that PW-1 Chiman Singh is father of Smt.Suman@Sonu.

He says that when dowry was demanded from him by in-laws of his daughter then he called a Panchayat at Sangaria village.

He says that things D.B.Cr.

Appeal No.453/2008 5 given in dowry were taken back by him after the death of his daughter.

He says that he had spent an amount of Rs.70,000/- in the marriage of his daughter.

He further says that his daughter had complained to him about demand of dowry and then after an interval of ten months, he had called Panchayat which was attended by Roshan Lal, Manohar Lal and Mukesh Kumar etc.He admits that Mukesh Kumar was the only person from Sangaria in that Panchayat.

He admits that his daughter Smt.Suman@Sonu was more beautiful than her husband Subhash and that is why she was not happy with her husband but he says that it is wrong to say that Smt.

Suman@Sonu committed suicide because of that disharmony.

He says that his son- in-law used to quarrel with her when he was in intoxication.

He admits that he called Panchayat two or three times but he did not lodge any FIR against the in- laws of Smt.Suman@Sonu, before her death.

DW-1 Nathhu Ram is father of accused-appellant Subhash.

He says that he himself is father of five daughters and he says that he or his wife or his daughter had never harassed his daughter-in-law Smt.

Suman@ Sonu for dowry and he says that actually because of physical disparity between husband and wife, Smt.Suman@Sonu committed suicide and none of the D.B.Cr.

Appeal No.453/2008 6 appellants is responsible for her death.

PW-2 Radha Rani is mother of deceased Smt.Suman@Sonu.

She says that her daughter used to complain about misbehaviour of her in-laws and she used to say that she was beaten by her in-laws.

She also admits that her daughter was more beautiful than Subhash and this was also one of the reasons of strained relations between the two.

PW-3 Roshan Lal is son-in-law of Chiman Lal and Smt.Suman@Sonu was his sister-in-law.

He says that three times Panchayat was called because Smt.

Suman@Sonu used to complain about misbehaviour of her husband and her in-laws about dowry.

PW-4 Sandeep Kumar is a neighbour of Subhash.

He says that he had never seen Subhash and his family members misbehaving with their daughter-in-law for demand of dowry.

PW-5 Manohar Lal is Mausea(uncle) of deceased Smt.Suman@Sonu.

He says that Chiman Lal used to complain against Subhash and his family members. He has stated that in Panchayat, accused-appellants had assured that in future, they will not misbehave with Smt.Suman@Sonu.

PW-7 Mukesh Kumar also says that because of D.B.Cr.

Appeal No.453/2008 7 demand of dowry, Smt.Suman@Sonu was unhappy with in-laws and that is why a Panchayat was called and in Panchayat, accused-appellants had assured that in future, they will not misbehave with Smt.Suman@Sonu.

PW-7 Dr.

Naresh Sharma, who is a member of the Medical Board of three doctors had conducted the post-mortem of Smt.

Suman@Sonu.

He says that Smt.Suman@Sonu died because of strangulation by hanging.

The Post-mortem Report Ex.P.10 was exhibited by him.

PW-8 Naga Ram, the then S.H.O.of Police Station, Sangaria is a formal witness of FIR No.569/2006 of Police Station, Sangaria.

PW-9 Hansraj, the then Deputy Superintendent of Police, Sangaria had conducted the investigation and he says that after recording the statement of the witnesses and after conducting all the formalities and after post-mortem of dead body of Smt.Suman@Sonu , he filed the charge-sheet against all the accused-appellants in the court.

In the statement under Section 313 of Criminal Procedure Code, accused-appellant Subhash has stated that his wife Smt.Suman@Sonu was not happy with the matrimonial life with him because she did not like him.

He says that he had never demanded any cash or motorcycle D.B.Cr.

Appeal No.453/2008 8 in dowry from his wife.

Other two accused-appellants have also narrated the same story in their statements under Section 313 of Criminal Procedure Code.

It appears that Smt.Suman@Sonu was more beautiful than her husband and so their matrimonial life was not peaceful and further her husband Subhash used to beat her while he was intoxicated and in the background of these facts, when dowry was also demanded by Subhash, then Smt.Suman@Sonu committed suicide for all these reasons.

Direct involvement of Mst.Paramjeet Kaur and Mst.

Geeta Devi is not proved in the case for the offences charged against them.

Mst.

Paramjeet Kaur is a married lady, who is admittedly living at Nohar with her husband and not in the village of Subhash.

Only because she was present at Sangaria at the time of death of Smt.Suman@Sonu, it cannot be said that she was responsible for the death of Smt.Suman@Sonu.

Similarly, mother of Subhash also does not appear to be directly involved in the offence alleged by the prosecution.

At the most, it can be said that accused-appellant Subhash used to harass his wife for one or the other reason and some times, he used to make demand of dowry also from his wife which compelled her to commit suicide within three years of her marriage.

D.B.Cr.

Appeal No.453/2008 9 The facts of Apex Court's ruling of Satish Chandra (supra) are quite similar to the facts of the present case.

In the present case also, the deceased was not happy with her matrimonial life for other reasons also and she was harassed by her husband for demand of dowry

also soon before her death.

So it is a fit case in which conviction of accused-appellant Subhash deserves to be confirmed under Section 304B and 498A IPC but conviction and sentence of other two accused-appellants, namely Mst.

Geeta Devi and Mst.

Paramjeet Kaur deserve to be quashed.

Hence, the appeal of accused-appellants Mst.

Geeta Devi and Mst.

Paramjeet Kaur is hereby allowed and they are acquitted from the charges levelled against them and their conviction and sentence are hereby quashed and set aside.

Both the accused-appellants Mst.

Geeta Devi and Mst.

Paramjeet Kaur are on bail, they need not to surrender, their bail bonds are hereby cancelled.

So far as accused-appellant Subhash is concerned, he has already suffered more than seven years in custody in this case, in the interests of justice his sentences are altered as follows:- (1) under Sec.

304B IPC : Seven years rigorous imprisonment.

(2) under Sec.

498AIPC : three years rigorous imprisonment.

D.B.Cr.

Appeal No.453/2008 10 Both the sentences shall run concurrently and since the total period of sentence ordered against the accused-appellant Subhash, has already been served by him, so he be released forthwith if not wanted in any other

case.

The appeal of the appellant-Subhash stands disposed of, accordingly.

Two copies of this judgment be sent to the concerned Jail Superintendent, one copy for the accused-appellants and one copy for office use.

Record of the trial court with a copy of this judgment be sent to the trial court immediately.

(ATUL KUMAR JAIN),J.

(GOPAL KRISHAN VYAS),J.

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